No one but the importer or some one representing him, has a right to enter goods at the custom house. *Harris* v. *Dennie*, 3 Pet. 292; *United States* v. *One Silk Rug*, 158 Fed. Rep. 974; *United States* v. *Ninety-nine Diamonds*, 132 Fed. Rep. 579; 139 Fed. Rep. 961.

It seems to us that the principal dispute that can arise in the case at bar is as to the meaning of the words "or other person."

The decision in the case that the words "or other person" mean some one of the same general class as those described by the preceding words, seems to be correct. It is certainly supported by the great weight of authorities. *United States* v. *1,150½ Pounds of Celluloid*, 82 Fed. Rep. 627.

The words "or other person" cannot be construed to mean "or other person whosoever."

For cases in support of this rule of construction, known as Lord Tenderden's Rule, see 21 American & Eng. Ency. of Law, title "Other," 1012; *In re Davidson*, 4 Fed. Rep. 509; *Crystal Spring D. Co.* v. *Cox*, 49 Fed. Rep. 555; *Newport News Co.* v. *United States*, 61 Fed. Rep. 488; *Crowther* v. *Fidelity Ins. Co.*, 85 Fed. Rep. 41; *Alabama* v. *Montague*, 117 U. S. 602; *State* v. *McGarry*, 21 Wisconsin, 502. Sedgwick on Const. of Stat. 361, states the rule as follows:

"Where general words follow particular words, the rule is to construe the former as applicable to the persons or things particularly mentioned."

The rule that general words will be restrained to things of the same kind with those particularized, has been applied in numerous cases. *East Oakland* v. *Skinner*, 94 U. S. 255; *White* v. *Ivey*, 34 Georgia, 186; *McIntyre* v. *Ingraham*, 35 Mississippi, 25; *Bucher* v. *Commonwealth*, 103 Pa. St. 528; *Matter of Hermance*, 71 N. Y. 481; *Renick* v. *Boyd*, 99 Pa. St. 555; *People* v. *N. Y. R. Co.*, 84 N. Y. 565; *Sullivan's Appeal*, 77 Pa. St. 107; *People* v. *Richards*, 108 N. Y. 137; Sutherland on Stat. Const., §§ 268, 277.

MR. JUSTICE BREWER, after making the foregoing statement, delivered the opinion of the court.

It appears that the trial court sustained the demurrer on the ground that, as to the offense charged, the statute, properly construed, does not include the defendant. The case is, therefore, one which may be brought to this court. *United States* v. *Keitel*, 211 U. S. 370. But our inquiry is limited to the particular question decided by the court below. *Id.* 398.

Counsel for defendant invokes what is sometimes known as Lord Tenderden's Rule, that where particular words of description are followed by general terms the latter will be regarded as referring to things of a like class with those particularly described—*ejusdem generis*. The particular words of description, it is urged, are "owner, importer, consignee, agent." The general term is "other person," and should be read as referring to some one similar to those named, whereas the defendant was not owner, importer, consignee, or agent or of like class with either. He was not making or attempting to make an entry. He represented the Government, and, contrary to his duties, was rendering assistance to the consignee who was making the entry. But, as said in *National Bank of Commerce* v. *Ripley*, 161 Missouri, 126, 132, in reference to the rule:

"But this is only a rule of construction to aid us in arriving at the real legislative intent. It is not a cast-iron rule, it does not override all other rules of construction, and it is never applied to defeat the real purpose of the statute, as that purpose may be gathered from the whole instrument. . . . Whilst it is aimed to preserve a meaning for the particular words, it is not intended to render meaningless the general words. Therefore, where the particular words exhaust the class, the general words must be construed as embracing something outside of that class. If the particular words exhaust the *genus* there is nothing *ejusdem generis* left, and in such case we must give the general words a meaning

outside of the class indicated by the particular words or we must say that they are meaningless, and thereby sacrifice the general to preserve the particular words. In that case the rule would defeat its own purpose."

See also *Gillcock* v. *The People*, 171 Illinois, 307, and the cases cited in the opinion; *Winters* v. *Duluth*, 82 Minnesota, 127; *Matthews* v. *Kimball*, 70 Arkansas, 451, 462. Now the party who makes an entry, using the term "entry" in its narrower sense, is the owner, importer, consignee or agent, and it must be used in that sense to give any force to the argument of counsel for defendant, but used in that sense the term "other person" becomes surplusage. In § 1 of chap. 76, Laws of 1863, 12 Stat. 738, is found a provision of like character to that in the first part of the section under which this indictment was found, but the language of the description there is "owner, consignee or agent." This was changed by § 12, chap. 391, Laws 1874, 18 Stat. 188, to read "owner, importer, consignee, agent, or other person," and that description has been continued in subsequent legislation. Evidently the addition in 1874 of the phrase "other person" was intended to include persons having a different relation to the importation than the owner, importer, consignee or agent. Congress was broadening the scope of the legislation and meaning to reach other persons having something to do in respect to the entry beyond that which was done by the owner, importer, consignee or agent, or else the term "other person" was a meaningless addition. Now the defendant was a person, other than the owner, importer, consignee or agent, by whose act the United States was deprived of a portion of its lawful duties. His act comes within the letter of the statute as well as within its purpose, and the intent of Congress in the legislation is the ultimate matter to be determined.

The fact that he could not be punished in all respects as fully as the owner, in that he had no goods to be forfeited, is immaterial. *United States* v. *Union Supply Company*, decided this day, *post*, p. 50.

We are of opinion, therefore, that the trial court erred in sustaining the demurrer. The judgment is reversed and the case remanded for further proceedings.